

**REMARKS**

This application has been reviewed in light of the Office Action mailed on April 19, 2005. Claims 1-20 are pending in the application. By the present amendment, Claims 1, 6, 10 and 20 have been amended and Claims 21-24 have been cancelled. No new matter or issues are believed to be introduced by the amendments.

**35 U.S.C. §102(e)**

Claims 1-3, 6, 10 and 20 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Application 2001/0011024 - Lundby.

Applicants respectfully traverse the rejection of claims 1-3, 6, 10 and 20 under 35 U.S.C. §102(b). It is respectfully submitted that claims 1-3, 6, 10 and 20 are patentable over Lundby for at least the following reasons and is therefore allowable.

Lundby is directed to a method and apparatus for **controlling the transmit power levels** of a plurality of **different data streams** transmitted from at least one base station to a mobile station in a mobile radio communication system. Lundby teaches at par. 46, *"a mobile station that generates an interleaved power control bit stream for controlling the transmit power levels of a plurality of different data streams that are transmitted to the mobile radio station from one or more base stations."* Lundby at par. 47, teaches a method for controlling the transmit power levels of a plurality of **different data streams** by utilizing a sum of signal-to-noise ratios expected from the combination of data streams.

The present invention is not directed to controlling the transmit power levels of a plurality of **different data streams**, as taught in Lundby. Rather, the present invention is directed to using **physical control channels** arranged for the bi-directional transmission of sets of control

information between a secondary (mobile) station and a plurality of primary (base) stations, to facilitate the ***selection***, by a secondary mobile station, **of a subset of primary (base) stations**, from among a plurality of primary stations. Once selected, data is transmitted over at least one data channel between the **selected subset of primary (base) stations** and the secondary (mobile) station.

Independent Claim 1 has been amended to more clearly distinguish the present invention over Lundby.

Claim 1 as amended now recites:

1. A radio communication system having physical control channels arranged for the bi-directional transmission of sets of control information between a secondary station and a plurality of primary stations, wherein respective closed-loop power control means are provided for individually adjusting the power of some or all physical control channels, or parts thereof, to which a set of control information is mapped, said closed-loop power control means being utilized to **select a subset of primary stations**, selected from the plurality of primary stations, for the transmission of data over at least one data channel between the **selected subset of primary stations** and the secondary station. [Emphasis Added]

A key feature of the present invention is the utilization of closed-loop power control means to facilitate the selection of a subset of primary (base) stations by the secondary (mobile) station.

While the Examiner correctly points out in the Office Action that CDMA systems have forward and reverse control channels, and as a result there will be an inherent bi-directional transmission of sets of control information. It is respectfully submitted that what is not taught in the prior art is the utilization of sets of control information for the purpose of selecting a subset

of primary (base) stations by the secondary (mobile) station for the purpose of transmitting data only over at least one data channel between the selected subset of primary (base) stations and the secondary (base) station, as recited in Claim 1.

Lundby is silent with regard to selecting a subset of primary (base) stations. Specifically, Lundby does not teach or disclose utilizing sets of control information to select a subset of primary (base) stations from a plurality of primary (base) stations. In fact, Lundby teaches a method and apparatus for controlling transmit power levels of data streams associated with base stations from multiple active sets, i.e., a first active set and a second active set of base stations (See Lundby at pars. 10-12).

It is respectfully submitted that at least the limitations and/or features of Claim 1 described above, are not disclosed or suggested by Lundby.

Accordingly, applicant respectfully request withdrawal of the rejection under 35 U.S.C. §102(e) with respect to Claim 1 and allowance thereof is respectfully requested.

Claims 2-3 depend from independent Claim 1 and therefore contain the limitations of Claim 1. Hence, for at least the same reasons given for Claim 1, Claims 2-3 are believed to be allowable over Lundby.

Accordingly, withdrawal of the rejection under 35 U.S.C. §103(a) with respect to Claims 2-5 is respectfully requested.

Claims 6, 10 and 20 have been amended in a manner similar to that of Claim 1. As such, these claims recite features which are found in Claim 1. Hence, for at least the same reasons given for Claim 1, Claims 6, 10 and 20 are believed to be allowable over Lundby.

Accordingly, withdrawal of the rejection under 35 U.S.C. §103(a) with respect to Claims 6, 10 and 20 is respectfully requested.

**35 U.S.C. §103(a)**

In the Office Action, Claims 4-5, 7 and 11-19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Lundby in view of U.S. Patent 6,603,971 to Mohebbi.

Claims 4-5, 7 and 11-19 depend from independent Claims 1, 6 and 10, respectively, and therefore contain the limitations of respective Claims 1, 6 and 10. Hence, for at least the same reasons given for Claim 1, 6 and 10, Claims 4-5, 7 and 11-19 are believed to be allowable over the cited references, alone and in combination. Accordingly, withdrawal of the rejection under 35 U.S.C. §103(a) with respect to Claims 4-5, 7 and 11-19 and allowance thereof are respectfully requested.

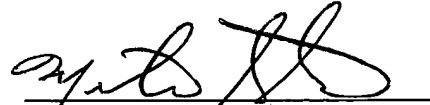
**35 U.S.C. §103(a)**

In the Office Action, Claims 21 -24 were rejected under 35 U.S.C. §103(a) as being unpatentable over Lundby in view of U.S. Patent 6,801,512 to Cudak. In response, Claims 21 – 24 have been cancelled.

**Conclusion**

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 1-20 are believed to be in condition for allowance and patentably distinguishable over the art of record.

Respectfully submitted,



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